

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-080336
	:	TRIAL NO. B-0706917
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
KEVIN LAWRENCE,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Kevin Lawrence was convicted on one count of murder with a firearm specification, two counts of felonious assault, and one count of having a weapon while under a disability. The trial court sentenced Lawrence to an aggregate term of 25 years to life in prison and “to make restitution.” But the court did not determine the amount of restitution. Lawrence has appealed this purported judgment of conviction.

We sua sponte dismiss Lawrence’s appeal. The court of appeals does not have jurisdiction over orders that are not final and appealable.² We apply the definitions of “final order” contained in R.C. 2505.02 to decide whether an order issued by a trial court in a criminal proceeding is a reviewable final order.³ R.C. 2505.02(B) provides in relevant part that “[a]n order is a final order that may be reviewed, affirmed, modified or reversed,

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² Section 3(B)(2), Article IV, Ohio Constitution; see, also, R.C. 2953.02.

³ *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163, ¶7-8.

with or without retrial, when it is * * * (1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment.”

In this case, where the court’s order imposed restitution as part of the sentence but did not determine the amount of the restitution, the order did not fully determine the action.⁴ Thus, the order did not constitute a final order under R.C. 2505.02(B) and cannot be appealed at this time.⁵ This appeal is accordingly dismissed.

Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R.24.

HENDON, P.J., SUNDERMANN and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 18, 2009

per order of the Court _____.

Presiding Judge

⁴ *In re Holmes* (1980), 70 Ohio App.2d 75, 77, 434 N.E.2d 747.

⁵ *Id.*